

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 59**

**[AD-FRL                    ]**

**RIN 2060-AE55**

**National Volatile Organic Compound Emission Standards for Architectural Coatings**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule; amendments.

**SUMMARY:** On September 11, 1998, EPA published the "National Volatile Organic Compound Emission Standards for Architectural Coatings" under the authority of section 183(e) of the Clean Air Act. In this action, we're changing the address to which exceedance fee payments must be mailed and clarifying the entity to whom payments should be made payable. This action won't change the volatile organic compound (VOC) content limits for architectural coatings or the level of emission reduction that the rule requires.

**EFFECTIVE DATE:** [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER].

**ADDRESSES:** Docket No. A-92-18 contains information considered by EPA in developing the promulgated standards and this action. You can inspect the docket and copy materials from 8 a.m. to 5:30 p.m., Monday through Friday, excluding legal holidays. The docket is located at the

EPA's Air and Radiation Docket and Information Center, Waterside Mall, Room M1500, 1st Floor, 401 M Street, SW, Washington, DC 20460; telephone (202) 260-7548 or fax (202) 260-4400. A reasonable fee may be charged for copying.

**FOR FURTHER INFORMATION CONTACT:** Ms. Linda Herring at (919) 541-5358, Coatings and Consumer Products Group, Emission Standards Division (MD-13), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711 (herring.linda@epa.gov). Any correspondence related to compliance with this rule must be submitted to the appropriate EPA Regional Office listed in §59.409(a) of 40 CFR part 59.

**SUPPLEMENTARY INFORMATION:** Section 553 of the Administrative Procedure Act, 5 U.S.C. 553(b)(3)(B), provides that, when an agency for good cause finds that notice and public procedure are impracticable, unnecessary, or contrary to the public interest, the agency may issue a rule without providing notice and an opportunity for public comment. The EPA has determined that there is good cause for making today's rule final without prior proposal and opportunity for comment because these corrections and clarifications are not controversial and do not substantively change the requirements of the architectural

coatings rule. Thus, notice and public procedure are unnecessary. The EPA finds that this constitutes good cause under 5 U.S.C. 553(b)(3)(B).

Regulated Entities. You may be affected by these rule amendments if you fall into one of the categories in the following table.

Category	NAICS code	SIC code	Examples of regulated entities
Industry	32551 325510	2851	Manufacturers (which includes packagers and repackagers) and importers of architectural coatings that are manufactured for sale or distribution in the U.S., including all U.S. territories.
State/local/tribal governments			State Departments of Transportation that manufacture their own coatings.

Architectural coatings are coatings that are recommended for field application to stationary structures and their appurtenances, to portable buildings, to pavements, or to curbs.

Use this table only as a guide because this action may also regulate other entities. To determine if it regulates your facility, business, or organization, carefully examine the applicability criteria in §59.400 of 40 CFR part 59. If you have questions about how it applies, contact Linda

Herring (see "FOR FURTHER INFORMATION CONTACT" section of this preamble).

## **I. Technical Corrections**

The EPA published in the Federal Register of September 11, 1998 (63 FR 48848), the final rule regulating VOC emissions from architectural coatings. The address in the rule to which exceedance fee payments must be submitted has changed and, therefore, needs to be updated. In addition, the rule did not specify the entity to whom exceedance fee payments should be made payable. Thus, we're correcting and clarifying the rule as follows:

1. We are changing §59.403(d) to indicate that the address to which exceedance fee payments must be mailed is located in §59.409(b) of the rule. This change is necessary to implement the exceedance fee receipt and processing procedures that EPA recently established for this rule.

2. We are removing the word "Regional" from the title of §59.409 to reflect that the section includes more than just the addresses of the EPA Regional Offices.

3. We are amending §59.409 by designating the existing text as paragraph (a) and modifying it so that exceedance fee payments are deleted from the list of items that are sent to the EPA Regional Offices. This change is necessary

due to the change in the address for exceedance fee payments.

4. We are amending §59.409 by adding paragraph (b) that provides the correct address to which exceedance fee payments must be submitted. This change is necessary to specify that exceedance fees should be mailed to: U.S. Environmental Protection Agency, AIM Exceedance Fees, Post Office Box 371293M, Pittsburgh, PA 15251. In addition, paragraph (b) of §59.409 contains a sentence specifying that the exceedance fee payments should be by check or money order made payable to "U.S. Environmental Protection Agency" or "US EPA."

## **II. Administrative Requirements**

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a "significant regulatory action" and is therefore not subject to review by the Office of Management and Budget. Because EPA has made a "good cause" finding that this action is not subject to notice-and-comment requirements under the Administrative Procedure Act or any other statute (see section I.A of this preamble), it is not subject to the regulatory flexibility provisions of the Regulatory Flexibility Act (5 U.S.C. 601, et seq.), or to sections 202 and 205 of the Unfunded Mandates Reform Act of 1995 (UMRA) (Pub. L. 104-4). In

addition, this action does not significantly or uniquely affect small governments or impose a significant intergovernmental mandate, as described in sections 203 and 204 of UMRA. This rule also does not significantly or uniquely affect the communities of tribal governments, as specified by Executive Order 13084 (63 FR 27655, May 10, 1998). This rule will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This rule also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant.

This technical correction action does not involve technical standards; thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. The rule also does not involve special consideration of environmental justice related issues as required by Executive Order 12898 (59 FR 7629, February 16, 1994). In issuing this rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct, as required by

section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996). The EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the "Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings" issued under the Executive Order. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501, et seq.). The EPA's compliance with these statutes and executive orders for the underlying rule is discussed in the September 11, 1998 (63 FR 48848) Federal Register notice.

The Congressional Review Act (CRA) (5 U.S.C. 801, et seq.), as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. Section 808 allows the issuing agency to make a rule effective sooner than otherwise provided by the CRA if the agency makes a good cause finding that notice and public procedure is impracticable, unnecessary, or contrary to the public interest. This determination must be supported by a brief statement (5 U.S.C. 808(2)). As stated in section I.A of this preamble, EPA has made such a good

cause finding, including the reasons therefor, and established an effective date of [INSERT DATE OF PUBLICATION OF THIS CORRECTION IN THE FEDERAL REGISTER]. The EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the Federal Register. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

**List of Subjects in 40 CFR Part 59**

Environmental protection, Air pollution control, Architectural coatings, Consumer and commercial products, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

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Dated:

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Robert Perciasepe,  
Assistant Administrator for  
Air and Radiation.



For the reasons set out in the preamble, subpart D of part 59 of title 40 of the Code of Federal Regulations is amended as follows:

**PART 59--[CORRECTED]**

1. The authority citation for part 59 continues to read as follows:

**Authority:** 42 U.S.C. 7401, et seq.

**SUBPART D--[CORRECTED]**

2. Amend §59.403 by revising paragraph (d) to read as follows:

**§59.403 Exceedance fees.**

\* \* \* \* \*

(d) The exceedance fee shall be submitted to EPA by March 1 following the calendar year in which the coatings are manufactured or imported and shall be sent to the address provided in §59.409(b).

3. Amend §59.409 by revising the section heading; designating the existing paragraph as paragraph (a) and revising the first sentence of the paragraph; and adding a new paragraph (b) to read as follows:

**§59.409 Addresses of EPA Offices.**

(a) Except for exceedance fee payments, each manufacturer and importer of any architectural coating subject to the provisions of this subpart shall submit all

requests, reports, submittals, and other communications to the Administrator pursuant to this regulation to the Regional Office of the U.S. Environmental Protection Agency that serves the State or Territory in which the corporate headquarters of the manufacturer or importer resides. \* \* \*

(b) Each manufacturer and importer who uses the exceedance fee provisions of §59.403 shall submit the exceedance fee payment required by §59.408(d) to the following address: Environmental Protection Agency, AIM Exceedance Fees, Post Office Box 371293M, Pittsburgh, PA 15251. This address is for the fee payment only; the exceedance fee report required by §59.408(d) is to be submitted to the appropriate EPA Regional Office listed in paragraph (a) of this section. The exceedance fee payment in the form of a check or money order must be made payable to "U.S. Environmental Protection Agency" or "US EPA."